IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2564 OF 2005

Shri Dilip Vajinath Pawar ....Petitioner.

V/s

Sou. Smita Dilip Pawar & anr. ....Respondents.

Mr. R.V. More for the petitioner.
Mr. R.Y. Mirza, APP for the State

CORAM: V.M. KANADE, J.
DATE : 1st August, 2006.

P.C.:

1. Heard the learned Counsel for the petitioner.

2. Petitioner is challenging the order passed by the Judicial Magistrate, First Class in Criminal Misc. Application No. 465 of 2002. By the said order, J.M.F.C. directed the petitioner to pay maintenance amount @ Rs 500/- per month to the respondent No.1 herein. Petitioner challenged this order in the Court of Additional Sessions Judge, Pandharpur. However, the Additional Sessions Judge by order dated 8/6/2005 confirmed the order passed by the Magistrate.

3. Petitioner is challenging the aforesaid two orders. It is submitted by the learned Counsel appearing on behalf of the petitioner that the lower Courts have not taken into consideration the fact that the respondent No.1 had an

agricultural land in her name and that, therefore, she was in a position to maintain herself. It is further submitted that the petitioner was unemployed and was getting income from the joint family property.

4. It is not possible to accept the submissions of the learned Counsel for the petitioner. Both the lower Courts have recorded finding against the present petitioner. Both the lower Courts have held that the petitioner has sufficient income from his joint family property to give separate maintenance to his wife. The contention was raised that the respondent No.1 was having agricultural land. The Trial Court, however, had held that no specific evidence was brought on record regarding the income earned by the respondent No.1. There is no substance in the submissions made by the learned Counsel for the petitioner. There is, therefore, no reason to interfere with the concurrent finding which has been recorded by both the lower Courts. Petition is accordingly dismissed.

(V.M. KANADE, J.)